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09/900,129	07/06/2001	William W. Jacobsen	022182-56	6519

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EXAMINER

RAJGURU, UMAKANT K

ART UNIT PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 999

Application Number: 09/900,129
Filing Date: July 06, 2001
Appellant(s): JACOBSEN, WILLIAM W.

Jennifer & Skord

For Appellant

EXAMINER'S ANSWER

MAILED

MAY 25 2004

GROUP 1700

MAY 25 2004

This is in response to the appeal brief filed January 10, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

This appeal involves claims 13-19.

(4) *Status of Amendments After Final*

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4380522	GEORLETTE ET AL	04/1983
5194461	BERGQUIST ET AL	03/1993
5932357	COATES ET AL	08/1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 13-16, 18 and 19 are rejected under 35 U.S.C. 103 as being unpatentable over Georlette et al (US 4380522) in view of Bergquist et al (US 5194461).

Georgette discloses a process for manufacture of articles from compositions containing 30-70% by weight of polyolefin and 30-70% by weight of cellulosic fibers (abstract), Cellulosic fiber are ligno-cellulosic materials, preferably particles of 0.1 to 3.0 mm size (col. 4, lines 7-12). Suitable polyolefins are polyethylene, polypropylene and few others (col. 2, lines 49-54). Polyolefins are modified by polar monomers (col. 2, line 66 to col. 3, line 18) such as acrylic acid, methacrylic acid and, maleic anhydride.

Georlette does not disclose length of at least 15 mm of cellulose fibers.

Bergquist discloses a composite comprised of recycled high density polyethylene and fibrous materials. Fibrous material are usually of 0.5 inch and may be several inches in length (col.2, lines 42-52).

Therefore it would have been obvious to use the fibers of length up to few inches in the composition of Georlette because use of such fibers will reduce cost of production of composition and articles therefrom and still maintain quality of the article.

Claim 17 is rejected under 35 U.S.C 103(a) as being unpatentable over Georlette (US 43805222) in view of Bergquist et al (US 5194461) as applied to claims 13 & 16 above, and further in view of Coates et al (US 5932357).

Disclosures of Georlette and Bergquist are presented in short earlier. They together fail to mention maleic anhydride graft polypropylene and polypropylen as ingredients of the (claimed) composition.

Coates discloses plastic articles comprised a polypropylene substance coated with coating of polyamide or polyester. A compatibilizer such as maleic anhydride grafted polypropylene is used (abstract).

Therefore it would have been obvious to use, in the composition of Georlette maleic anhydride grafted polypropylene as a coupling agent when polypropylene is used as the thermoplastic, in order to enhance adhesion of polypropylene and cellulosic fibers.

(11) Response to Argument

On pages 5 of the brief, the Appellant states that, "table V illustrates that the more that the long hair-like fibers", are used, to 50 wt% of the fiber, then the better are the properties" The Appellant refers to table V on page 14 as support for above statement. Table V shows data on five samples. Out of those samples, sample 7 has lowest tensile strength (17.8 MPA) while sample 12 has maximum tensile strength (24.6 Mpa). Both samples contain 30% by wt of wood fibers. Sample 7 contains "Southern Pine¹ as wood fibers and sample 12 contains "Poplar5" as wood fibers (see table 1 on page 11). From the description of these two types of wood fiber (given on page 12) it is

Art Unit: 1761

not clear which of these fibers are longer and what is their length. Therefore Appellant's above statement does not have any supportive data.

Further on the same page (page 5) the Appellant's statement that "Georlette uses modifies polyolefin and wood fiber" is true. Examiner is of the opinion that invention of Geolette is equally useful with modified as well as unmodified polyolefins.

Appellant's argument (on page 6) about Bergquist is not persuasive because the disclosure of Bergquist of fibers having length from 0.001 to 12 inches does encompass the claimed length of more than 15 mm.

On page 7, the Appellant submits that Coates does not disclose a moldable composition. This is true. It being a secondary reference Coates does not have to be directed to a molding composition. Coates is relied upon solely for its teaching of use of (claimed) coupling agent. The said coupling agent should be equally useful in a molded product, as it is a coating.

The Examiner recognizes that obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some, suggestion, or motivation to do so found either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art. See in re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and in re Jones, 958 F. 2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation has been forth in earlier Office Action.

It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes

Art Unit: 1761

into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F2d 1392, 170 USPQ 209 (CCPA 1971).

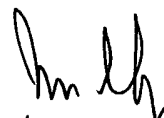
In response to Appellant's argument that Coates is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonable pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *in re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Coates was faced with the problem of enhancing adhesion which was the problem faced by Georlette.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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Application/Control Number: 09/900,129
Art Unit: 1761

Page 8